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Thomas Solomos v. Sheriff Ken Jenne

THE NEXT CASE ON THE COURT'S ORAL ARGUMENT DOCKET IS THE CASE OF SOLOMOS VERSUS JENNE SOL MOST JENNE.

GOOD MORNING ANGMAY IT PLEASE THE COURT. I AM COUNSEL FOR PETITIONERS IN THIS MATTER. MY NAME IS GARY KOLLIN. THE VALID OF STATUTE 451.9303. THIS CASE COMES TO THE COURT ON A CLASS ACTION, HAVING PREVIOUSLY BE CERTIFIED AS SUCH BY THE CIRCUIT COURT AND UPHELD ON THE FIRST APPEAL TO THE COURT OF APPEAL AS A CLASS ACTION. THE COURT OF APPEAL, ON THE MERITS ON THE SECOND APPEAL, UPHELD THE GRANT OF SUMMARY JUDGMENT AND UPHELD THE DENIAL OF THE PETITIONER'S CROSS MOTOR VEHICLES FOR -- CROSS MOTION FOR SUMMARY JUDGMENT, SO THIS IS A SUMMARY JUDGMENT CASE. VERY BRIEFLY, THE HISTORY OF THIS CASE AND THE CONTROVERSY IS QUITE SIMPLE. IN 1996, THE FLORIDA LEGISLATURE ENACTED THE STATUTE IN QUESTION, WHICH RECITED A NEED TO ALLEVIATE THE FINANCIAL BURDEN ON LOCAL GOVERNMENTS, IN RUNNING LOCAL DETENTION FACILITIES AND HOUSING INMATES. AND IT OFFERS THE LOCAL DETENTION FACILITIES AN OPTION TO CHARGE FEES FOR DAILY SUBSIST TENS. PURSUANT TO THAT STATUTE, THE SHERIFF ADOPTED SUCH A PROGRAM, WHEREBY HE CHARGES \$2 A DAY AND A ONE-TIME FEE OF \$10. EYE UNDERSTAND THAT IN BROWARD --

I UNDERSTAND THAT, IN BROWARD THAT IS THE POSITION, BUT IF THERE IS NOT AN INMATE ACCOUNTS, THAT IF AN INMATE MAY HAVE ASSETS, THE SHERIFF DOESN'T BOTHER TRYING TO COLLECT THE \$2 A DAY. ONLY FOR THOSE THAT HAVE AFFIRMATIVELY DETERMINED TO ESTABLISH AN ACCOUNT?

WELL, THAT IS CORRECT, YOUR HONOR. THE PROGRAM WORKS BY CHARGING INMATES ESCROW ACCOUNTS, FUNDS HELD BY THE SHERIFF.

SO, I GUESS, IS IT YOUR, IS YOUR PROBLEM THAT THAT IS TOO SIMPLE AWAY TO DETERMINE WHETHER SOMEONE IS INDIGENT OR NOT? BECAUSE IT SEEMS THAT, IF THEY ARE ACTUALLY, THAT AN INMATE HAS THE OPTION JUST TO SAY, WELL, I AM NOT GOING TO ESTABLISH THIS ACCOUNT BALANCE. I AM NOT GOING TO HAVE THIS ACCOUNT, AND THEN THEY ARE NOT EVEN GOING TO GET CHARGED, EVEN IF THEY HAVE GOT ASSETS.

YOUR HONOR, TWO POINTS. IN THE ABSTRACT, THAT MIGHT BE A REASONABLE POSITION TO TAKE, BUT IT IS NOT THE POSITION THAT THE FLORIDA LEGISLATURE TOOK. OUR POSITION IS QUITE SIMPLE. THE SHERIFFS PROGRAM DOES NOT COMPLY WITH THE FLORIDA STATUTE. YOU TAKE THE STATUTE AND YOU WEIGH THE PROGRAM ALONGSIDE. THE TWO DO NOT SQUARE UP, AND I AM GOING TO CITE TO YOU, FIVE REASONS WHY THE TWO PROGRAMS, WHY THE SHERIFF'S PROGRAM DOES NOT SQUARE WITH THE STATUTE. THE VERY FIRST THING IN THE STATUTE IS A RECITATION THAT INMATES HAVE SOURCES OF INCOME AND ASSETS OUTSIDE.

CAN I, JUST ONE OTHER THING I NEED TO ASK. IF WE, IF, WHEN WE ACCEPTED THIS FOR DISCRETIONARY JURISDICTION, BASED ON AN ISSUE THAT THEY DECLARED THE STATUTE VALID, THE QUESTION, AS TO ARE YOU SAYING THAT THE SHERIFF'S APPLICATION OF THE STATUTE, ONE THING THAT SAYS NOT FOLLOWING IT, BUT THAT IT IS AN UNCONSTITUTIONAL APPLICATION OF THIS STATUTE. IS THAT YOUR CLAIM?

WE PRESENT THREE ISSUES, YOUR HONOR. THE FIRST IS WHETHER THE SHERIFF'S PROGRAM

VIOLATES THE STATUTE, ITSELF.

BUT THAT WOULDN'T BE A BASIS FOR OUR DISCRETIONARY REVIEW. THERE IS NO CONFLICT.

WELL, THE ORDER GRANTING DISCRETIONARY REVIEW DID NOT CITE ANY PARTICULAR --

YOU WOULD KNOW AS AN APPELLATE ADVOCATE, THAT THERE WOULD BE NO JURISDICTION ON JUST WHETHER THEY WERE NOT FOLLOWING THE STATUTE.

WELL, GOING BACK TO OUR PETITION, I THINK WE CITED THREE GROUNDS FOR THE GRANT OF PETITION. ONE OF THEM WAS THAT IT EFFECTS A CLASS OF CONSTITUTIONAL OFFICERS. BUT I THINK TO COMPLETE MY ANSWER, JUSTICE PARIENTE, WE ARE ALSO, ALLEGEING IN THE ALTERNATIVE, THAT IF THE SHERIFF'S PROGRAM IS DEEMED TO BE INVALID COMPLIANCE WITH THE STATUTE, THEN THE STATUTE, AS INTERPRETED, IS UNCONSTITUTIONAL. AND I BELIEVE THAT THE JURISPRUDENCE OF THIS COURT IS THAT, ONCE YOU HAVE JURISDICTION OVER ANY ISSUE IN THE CASE, IT IS PERMISSIBLE AND PROPER TO CONSIDER ALL ISSUES.

AND WHY IS IT UNCONSTITUTIONAL?

WELL, IT WOULD VIOLATE BOTH FEDERAL PROCEDURAL DUE PROCESS REQUIREMENTS UNDER FENCEES SHERZ -- UNDER FUENTES VERSUS SHEVIN, AND WE WOULD HAVE CONSTITUTIONAL HOOK, IF YOU WILL, FOR THE JURISDICTION OF THIS COURT, AND WE BELIEVE THAT THE COURT, ALSO, SHOULD PROPERLY CONSIDER WHETHER THE STATUTE, ITSELF, IS BEING FAITHFULLY COMPLIED-WITH BY THE SHERIFF. MR. CHIEF JUSTICE

JUSTICE QUINCE HAD A QUESTION.

I BELIEVE THAT YOU WERE ABOUT TO GET INTO THE FACT THAT THE STATUTE MADE SOME REFERENCE TO THE FACT THAT INMATES MAY HAVE OTHER ASSETS, INHERITANCES, ET CETERA, ET CETERA, BUT DOES THE STATUTE SAY THAT, IN ORDER TO IMPLEMENT THIS KIND OF PROGRAM, THAT YOU HAVE TO LOOK TO THOSE ASSETS?

WELL, YOUR HONOR, IT SAYS THAT, IF YOU READ IT TOGETHER WITH THE VERY NEXT SENTENCE IN THE STATUTE, WHICH IS SUBSECTION TWO, WHICH SAYS THE LOCAL DETENTION FACILITY SHALL DETERMINE THE FINANCIAL STATUS OF PRISONERS FOR THE PURPOSE OF PAYING FROM THEIR INCOME AND ASSETS.

IN THAT SAME VEIN, WE ARE TALKING ABOUT MUNICIPAL AND COUNTY JAILS, CORRECT, WHERE YOU HAVE A VERY TRANSYEPT SORT OF POPULATION.

YES, YOUR HONOR.

YOU DON'T HAVE LONG TERM INMATES IN THESE JAILS FACILITIES, AND SO HOW WOULD YOU AS A PRACTICAL MATTER, SEE THAT THIS COULD OPERATE, WITH YOU KNOW, SOMEONE WHO MAY HAVE A 60-DAY SENTENCE, AND THE SHERIFF TRYING TO GO OUT AND DETERMINE WHAT KIND OF ASSETS AND INCOME SOMEONE WOULD HAVE, BEFORE THAT 60-DAY PERIOD WOULD BE OVER?

I UNDERSTAND, JUSTICE QUINCE. I THINK, IT IS IMPORTANT TO COME UP WITH A PRACTICAL SOLUTION, AND I THINK THE PRACTICAL SOLUTION IS TO LOOK TO OUR LEGAL PROCEDURES, WHICH ARE MOST CLOSELY ANALOGOUS TO THIS, AND THERE ARE TWO. ONE IS THE STANDARD FOR THE APPOINTMENT OF COUNSEL, UNDER FLORIDA 27.52, WHERE THE JUDGE IS REQUIRED TO LOOK AT DEBT INCOME FROM WAGES, OUTSIDE INCOME FROM ASSETS, AND THE OTHER IS TO LOOK AT THE PROCEDURES FOLLOWED BY ALL COURTS, STATE AND FEDERAL, TO DETERMINING WHETHER A LITIGANT MAY PROCEED IN FORM OF PAUPEROUS. YOU DO IT WITH AN AFFIDAVIT, LISTING THE SORT OF THINGS THAT SUBF REQUIRES YOU TO LIST. AND -- SUB-F REQUIRES YOU TO

LIST. AND I WOULD BE HAPPY TO FILL OUT AN AFFIDAVIT ON BEHALF OF MY CLIENT, LISTING INCOME, LIBLS, ASSETS, SO ON AND SO FORTH. THAT COULD PRACTICALLY BE DONE BY THE SHERIFF, UPON INITIATION OF THE INMATE, WHICH REQUIRES THAT SORT OF FINANCIAL INFORMATION TO BE PUT FORTH, AND THEN THE SHERIFF WOULD BE ABLE TO MAKE A DETERMINE NATION, AND IF IT WAS COMPUTER-CODED, IT WOULD NOT CREATE A MASS OF PAPERWORK.

YOU SAY THERE IS NO INVOLVEMENT OF SUMMARY JUDGMENT, SO WE DON'T KNOW WHETHER ANY INMATES ACTUALLY HAD THEIR ACCOUNT BALANCES CHARGED WHEN THEY ACTUALLY HAD LARGE LIABILITIES OR WOULD OTHERWISE BE INDIGENT. WE DON'T REALLY KNOW WHETHER ANY OF THE INMATES ACTUALLY EXPERIENCED THAT KIND OF HARM.

THE RECORD SHOWS THAT PETITIONER SOLOMOS RECEIVED, THIS IS THE AFFIDAVIT ATTACHED TO THE COMPLAINT. IT IS IN THE RECORD AT PAGES TEN AND 11. HE RECEIVED \$75 AS A GIFT AND DEPOSITED IT INTO THE ESCROW ACCOUNT AT THE JAIL, AND HIS AFFIDAVIT RECITES THAT HE DID IT FOR THE PURPOSE OF BUYING, QUOTE BASIC NECESSITIES. SO THE SHERIFF, THEN, DEBITED OR CHARGED THAT \$75, WITHOUT MAKING ANY OF THE INQUIRIES THAT ARE REQUIRED BY STATUTE, WITHOUT ASKING ABOUT INCOME AND ASSETS OUTSIDE, WITHOUT DETERMINING HIS FINANCIAL STATUS, WITHOUT DETERMINING WHETHER ANY INCOME EXEMPT BY STATE OR FEDERAL LAW.

THAT WAS A GIFT. THAT WOULDN'T HAVE BEEN EXEMPT. CORRECT?

THAT PARTICULAR ITEM PROBABLY WOULD NOT.

HE NEEDS BASIC NECESSITIES. SO IS THERE AWAY, THEN, UNDER THE PROCEDURE, TO CHALLENGE AND SAY, WELL, I GOT THAT AS A GIFT BUT I ACTUALLY HAVE A, YOU KNOW, I HAVE GOT \$2,000 IN LIABILITIES LIABILITIES.

YES, YOUR HONOR.

I AM INDIGENT?

YES, YOUR HONOR. HE CAN CHALLENGE IT, AND THE SHERIFF WILL SAY, BY THE GRIEVANCE PROCEDURE, WHICH COMPLETELY SHIFTS THE BURDEN UNDER THE STATUTE. THE STATUTE DOESN'T SAY, TO THE SHERIFF, TAKE WHATEVER YOU CAN GET YOUR HANDS ON AND THEN PUT THE BURDEN ON THE INMATE TO COME FORWARD AND CLAIM EXEMPTIONS OR LIABILITIES OR WHATEVER THE MATTER MAY BE. THE STATUTE SAYS THAT THE SHERIFF SHALL, FIRST, DETERMINE THE FINANCIAL STATUS OF THE INMATE. SO ONCE AGAIN, IN THE ABSTRACT, THE PROGRAM THAT YOU ARE SUGGESTING COULD BE ADOPTED, COULD HAVE BEEN ADOPTED BY THE LEGISLATURE, BUT THE LEGISLATURE DIDN'T CHOOSE TO GO THAT ROUTE.

COUNSEL, WITH REGARD TO THE STATUTE, ITSELF, IT CERTAINLY GIVES US BROAD PARAMETERS OF INTENT AND SUBSTANCE, BUT MOST OF YOUR ARGUMENTS SEEM TO BE DIRECTED TOWARDS THE PROCEDURES, THE NONPROCEDURES, IF YOU WILL, TO DETERMINING ASSETS, THE SAYS YOUR BEFORE ANY DETERMINATIONS, THE LACK OF ANY MEANINGFUL INFORMATION, SO IT SEEMS, ALMOST THAT IT IS THE PROCEDURES THAT ARE USED AND NOT, REALLY, THE STATUTES. ARE YOU CONTENDING THAT THE STATUTE MUST SET FORTH THESE ELEMENTS OF PROCEDURAL DUE PROCESS, BEFORE WE CAN UPHOLD THE STATUTE, OR IS IT THAT THE WAY THE SHERIFF HAS STRUCTURED WHATEVER IT IS, THE NONPROCEDURES, IF YOU WILL, AND SEIZING THESE ASSETS THAT CREATES THE FUNDAMENTAL PROBLEM HERE? I SEE SOME TENSION HERE, AS TO WHEN WE ARE TALKING ABOUT THE BASE OF OUR JURISDICTION AND WHETHER WE HAVE A CONSTITUTIONALLY-VALID STATUTE.

YES, YOUR HONOR. THERE IS, THERE IS AN AMBIGUITY IN THE STATUTE, ITSELF, AS TO WHETHER

OR NOT IT COMPLIES WITH THE PROCEDURAL DUE PROCESS, AND I WOULD CITE THE COURT TO SUBSECTION 3 OF THE STATUTE, WHICH SAYS THAT A PRISONER IS ENTITLED TO REASONABLE ADVANCE NOTICE OF THE ASSESSMENT AND SHALL BE AFFORDED AN OPPORTUNITY TO PRESENT REASONS FOR OPPOSITION TO THE ASSESSMENT. NOW, THE ADVANCE NOTICE IS NOT REALLY AN ISSUE HERE. IT IS THE TIMING OF THE OPPORTUNITY TO OPPOSE THE ASSESSMENT. THE SHERIFF TAKES IT FIRST THEN PUTS THE BURDEN ON THE INMATE TO COME FORWARD AND MAKE THE OBJECTIONS. WE CONTEND THAT THAT IS A VIOLATION OF PROCEDURAL DUE PROCESS. UNDER FUENTES VERSUS SHEVIN AND JAMES DANIEL G, AND A LONG LINE OF CASES THAT SAYS, EXCEPT FOR AN EMERGENCY SITUATION, YOU CAN'T -- AND JAMES DANIEL GOODE, AND A LONG LINE OF CASES THAT SAYS, EXCEPT FOR AN EMERGENCY SITUATION, YOU CAN'T TAKE FIRST. NOW, IF THE STATUTE PROSECUTES THE SHERIFF'S INTERPRETATION OF A POSTPONE HEARING, THAT WOULD CREATE THE CONSTITUTIONAL PROBLEM. ALTERNATIVELY, THE COURT MIGHT CONSTRUER THE STATUTE IN SUCH A WAY AS TO AVOID THAT CONSTITUTIONAL PROBLEM, AND WE HAVE SUGGESTED IN THE BRIEF OF PETITIONERS, HOW THAT MIGHT BE DONE, BY CONSTRUING THE WORD "ADVANCED", TO MODIFY BOTH CLAUSES, THE NOTICE CLAUSE AND THE OPPORTUNITY TO OPPOSE CLAUSE.

I AM STILL CONFUSED AS TO WHETHER YOU ARE MAKING AN AS-APPLIED ARGUMENT OR WHETHER YOU ARE SAYING THAT THE STATUTE IS UNCONSTITUTIONAL ON ITS FACE. AND I THINK THAT IS WHAT JUSTICE LEWIS WAS ASKING, WHICH ARGUMENT YOU ARE MAKING.

> IT DEPENDS ON HOW THE COURT INTERPRETS SUBSECTION 3. IF THE COURT INTERPRETS SUBSECTION 3 AS THE SHERIFF DOES THEN THAT WOULD BE UNCONSTITUTIONAL, AS APPLIED, I SUPPOSE, IS THE CORRECT ANSWER. BECAUSE IT WOULD BE AUTHORIZING TAKINGS PRIOR TO THE OPPORTUNITY TO PRESENT THE REASONS IN OPPOSITION.

IT DOESN'T SPELL OUT THE -- THE STATUTE DOESN'T SPELL OUT THE PROCEDURE FOR THE SHERIFF MAKING THIS DETERMINATION, SO THAT IS WHY I SORT OF GATHERED THAT YOURS WASN'T AS APPLIED.

YES, SIR.

ARGUMENT.

YES. YES, SIR, AND CLAUSES ONE AND TWO, WE LIKE CLAUSES ONE AND TWO. WE THINK THE STATUTE WAS DRAWN WITH A CAREFUL ATTENTION TO TRYING TO BALANCE THE INTEREST OF THE LOCAL GOVERNMENT AND IN FINANCING THE COST OF HOUSING INMATES, WITH A REASONABLE PROTECTION FOR THOSE WHO ARE IMPOVERISHED. THE WAY THE SHERIFF READS THIS STATUTE, IS IT DOESN'T MATTER IF MR. SOLOMOS PUT IN \$75 IN THE SHERIFF'S PROGRAM, IT DOESN'T MATTER IF IT IS \$75 IS EVERYTHING HE HAS IN THE WORLD OR IF IT IS \$75 OF \$750 THAT HE HAS OR \$75 OF \$75,000. THAT IS NOT WHAT IS REQUIRED BY THE STATUTE. THE STATUTE IS, HAS TO ALLOW FOR SOME OVERHEAD, WHEN IT SAYS CONSIDER THE ABILITY OF THE INMATE TO PAY.

I GUESS THE COUNTERARGUMENT TO THAT WOULD BE THAT, AS A PRACTICAL MATTER, WHERE YOU HAVE INMATES WHO ARE THERE FOR A SHORT TIME, THIS IS THE MOST PRACTICAL MEANS OF MAKING THAT DETERMINATION, BY SHIFTING THE BURDEN, YOU THINK. I SEE THE MONEY HERE, SO I AM GOING TO TAKE IT. NOW, YOU COME FORWARD AND TELL ME WHY I SHOULD NOT. NOT TAKE THE \$2 AND THE \$10 OUT AND IF A PRISONER HAS THAT OPPORTUNITY TO MAKE THE SHOWING THAT IT IS EXEMPT FOR SOME REASON OR WHATEVER HE HIS SHOWING IS, DOES THAT -- OR WHATEVER HIS SHOWING IS, DOES THAT MAKE IT UNCONSTITUTIONAL?

I THINK I HAVE TWO ANSWERS FOR YOU, YOUR HONOR. ONE IS THAT THERE IS NOTHING TO PREVENT THE LEGISLATURE FROM PASS AGO LAW THAT IS, QUOTE, IMPRACTICAL, AND PERHAPS THAT IS WHAT THEY HAVE DONE, BUT ON THE OTHER HAND, I DO THINK THERE IS A PRACTICAL SOLUTION. THE PRACTICAL SOLUTION IS THE SAME SORT OF AFFIDAVIT THAT WOULD BE USED TO

DETERMINE INDIGENCY FOR THE PURPOSE OF APPOINTING COUNSEL OR FOR PROCEEDING IN THIS COURT OR ANY OTHER COURT, IN THE FORM OF PAUPEROUS. IF YOU HAVE THE FILING FEE FOR THE U.S. SUPREME COURT IS 300 BUCKS F A PERSON HAS \$50 ON -- IS 300 BUCKS. IF A PERSON HAS \$500, HE IS STILL ALLOWED TO PROCEED IN THE FORM OF PAUPEROUS. YOU ARE NOT REQUIRED TO DELEWD EVERY SINGLE PENNY THAT YOU HAVE IN ORDER NOT TO BE ABLE TO PAY.

IF I READ THE SETTING UP OF SOME TYPE OF IN DEJENCY STANDARD. IT -- IN GENT STATUS, IT SAYS PAYING A PORTION OF THE DAILY SUBSIST TENS CLAUSE, SO THERE MIGHT BE AN ARGUMENT THAT, IF SOMEONE HAD \$202 IN THEIR ACCOUNT -- IF SOMEONE HAD \$20 IN THEIR ACCOUNT, THAT IT WOULD BE UNFAIR TO TAKE ALL OF THEIR \$20, IF THAT IS ALL THEY HAD, BUT IT DOESN'T SEEM TO ME THAT THE STATUTE SAYS THAT, IF THEIR LIABILITIES EXCEED THEIR ASSETS, THAT THE LOCAL DETENTION FACILITY IS PRECLUDED FROM TAKING SOME PORTION TO PAY FOR THE SUBSIST TENS CLAUSE. DO YOU READ THIS AS SAYING IT IS A LIABILITY OF STATE ASSETS THAT THEY, THAT THE LOCAL DETENTION --

YES, YES, YOUR HONOR. WHAT ELSE DOES FINANCIAL STATUS MEAN? STATUS IS A CONDITION. IT IS NOT A SINGLE NUMBER. \$2 IS NOT A FINANCIAL STATUS. NET WORTH ASSETS OVER LIABILITIES, THAT IS A FINANCIAL STATUS. WHY ELSE WOULD THE LEGISLATURE PUT IN THIS PHRASE, CONSIDERATION SHALL BE GIVEN TO THE PRISONER'S ABILITY TO PAY. IF IT SIMPLY WANTED TO AUTHORIZE THE SEIZING OF ANY MONEY IN THE ACCOUNT, IT WOULD HAVE PASSED THE SAME STATUTE AS OHIO PASSED. IN OHIO, THE LAW SAYS THAT THE DEPARTMENT OF CORRECTIONS CAN RECOVER COSTS DIRECTLY FROM, QUOTE, ANY FUNDS IN ITS POSSESSION THAT ARE BEING HELD FOR THE OFFENDER, ANY FUNDS, BUT THAT IS NOT WHAT THE FLORIDA LEGISLATURE DID. THE FLORIDA LEGISLATURE SAID ENGAGE IN A BALANCING. SEE HOW MUCH HE HAS GOT. LOOK AT THE OUTSIDE SOURCES AND SEE WHAT HIS ABILITY TO PAY IS. MR. CHIEF JUSTICE

THANK YOU. MR. JOLLY.

MAY IT PLEASE THE COURT. MY NAME IS BRUCE JOLLY, WITH THE FIRM OF PURDY, JOLLY AND GIUFFREDA IN FT. LAUDERDALE. WE REPRESENT SHERIFF KEN JENNE IN THIS CASE. THERE IS A FACTUAL ERROR, AND FRANKLY JUSTICE PARIENTE, YOU PICKED UP ON IT. THERE IS AN ISSUE EW, WE RECITED IN OUR BRIEF, THAT -- THERE IS AN ISSUE, WE RECITED IN OUR BRIEF, THAT SOLOMOS DID COME OUT ON THE FIRST PART OF THE ARGUMENT. SOLOMOS DID HAVE MONEY IN HIS ACCOUNT AND THAT MONEY WAS WITHDRAWN, SO THAT YOU SHOULD BE AWARE OF THAT. THE OTHER COMPONENT TO THAT, AND AGAIN, JUSTICE PARIENTE, YOU BROUGHT UP THE ISSUE OF WHETHER THERE WAS EVIDENCE IN THE RECORD ABOUT OBJECTIONS BEING MADE BY OTHERS AND THE STATUS OF THOSE OBJECTIONS, AND FRANKLY THE RECORD, THE BUSINESS MANAGER FOR THE SHERIFF, MR. CHRISTOPHER, TESTIFIED THAT, WHETHER OTHER OBJECTIONS HAD BEEN SUBMITTED AND IN VARIOUS FORMS WERE EITHER SUSTAINED OR NOT SUSTAINED, DEPENDING ON WHAT THE RESULTS WERE.

HOW DO YOU, REALLY BRIEFLY EXPLAIN PRACTICALLY, IF A PRISONER WAS TO SAY, I HAVE GOT \$100. SOMEONE GAVE ME A GIFT, BECAUSE I NEED TO GET WHATEVER YOU GET IN THE KOMEX AREA WHICH NEED THE MONEY FOR, BUT I HAVE GOT DEBTS OF \$100,000. HOW DOES THAT WORK IN BROWARD COUNTY? WHAT WOULD HAPPEN?

PRACTICALLY IT WOULDN'T. IF I AM IN CUSTODY ALREADY AND MY MOTHER BRINGS ME \$100, THE NEXT DAY, WHEN THAT MONEY IS ACTUALLY DEPOSITED INTO THE ACCOUNT, \$2, ACTUALLY \$12 WOULD BE DEBITED, \$10 FOR THE UNIFORM, ASSUMING THERE WAS NEVER ANY MONEY IN THE ACCOUNT BEFORE, AND SDLA 2 FOR THAT DAY. -- AND \$2 FOR THAT DAY. HE, THE INMATE, HAS THE RIGHT TO THEN, OPPOSE THAT, FILE OBJECTION BY WAY AFTER GRIEVANCE AND THIS IS ALL SPELLED OUT IN THE GRIEVANCE PROCEDURE, CAN WHICH IS POSTED IN THE INMATE HANDBOOK, WHICH IS PROVIDED TO EACH INMATE UPON ADMISSION.

EXCUSE ME. WITH REGARD TO THAT, IT IS MY UNDERSTANDING THAT, ALTHOUGH THE GRIEVANCE PROCEDURE MAY BE OUTLINED, THAT THERE IS NO NEXUS BETWEEN THE GRIEVANCE PROCEDURE, SO REALLY SOMEBODY UNDERSTANDS THAT THAT IS THE PROCEDURE FOR THE TAKING OF THE MONEY. AM I INCORRECT ON THAT? THIS IS THE GRIEVANCE PROCEDURE THAT APPLIES TO NAING HAPPENS, IS IT NOT?

I THINK THAT IS A FAIR STATEMENT. -- THAT APPLIES TO ANYTHING THAT HAPPENS, IS IT NOT?

I THINK THAT IS A FAIR STATEMENT. THE GRIEVANCE PROCEDURE SAYS THAT ANYTHING THAT YOU, AS AN INMATE, WISHES TO COMPLAIN ABOUT THIS IS HOW YOU DO IT, WITH THE EXCEPTION OF A, B AND C. THERE ARE SPECIFIC THINGS THAT ARE EXCLUDED NOT INCLUDED.

SO IT IS YOUR POSITION THAT THIS IS SIGNIFICANT PROCEDURE FOR ONE TO FOLLOW THEN.

THAT'S CORRECT.

AGAIN, THE NOTICE SAYS DEDUCTED \$12. DO THEY GET SOMETHING IN THEIR ACCOUNT, AND WHAT, IS THERE AN ACTUAL PAPER NOTICE THAT THEY GET?

JUSTICE PARIENTE, YOU KNOW, I DON'T KNOW THE ANSWER TO THAT QUESTION. I DON'T KNOW HOW THEY NOTIFY THEM OF THE DEDUCTION. IT NEVER CAME UP AND I DON'T KNOW.

BUT THAT IS SORT OF THE QUESTION OF THIS PROCEDURAL DUE PROCESS ISSUE, THAT YOU KNOW, MAY BE IMPLICATED HERE, WHICH IS THAT, IF YOU ARE TAKING IT, NOT EXPLAINING THAT THEY HAVE GOT RIGHTS TO CONTEST IT, IF THEY HAVE GOT LIABILITIES THAT EXCEED THIS, THEN --

WELL, THEY DO HAVE THAT RIGHT. THAT IS WHY --

IT IS A GRIEVANCE.

AND THANK FRANKLY THAT IS PART OF WHAT -- AND FRANKLY THAT IS PART OF WHAT LINDA CHRISTOPHER TESTIFIED ABOUT, IN RESPONSE TO SPECIFIC QUESTIONS ASKED, AND THAT IS I AM AN INMATE. MY MOTHER BROUGHT ME MONEY. SHE BROUGHT ME \$10 ON AND YOU TOOK \$12 -- SHE BROUGHT ME \$1 ON 0 AND YOU TOOK \$12 -- SHE BROUGHT ME \$100, AND YOU TOOK \$12 OFF THE TOP. I OWE \$10,000 TO PEOPLE OUT THERE. DOES IT FALL WITHIN THE CRITERIA OF THE STATUTE? FOR EXAMPLE, IS THERE ADJUDICATED LIABILITY THAT YOU HAVE? IS THERE SOME KIND OF OTHER LIABILITY, AND WE WILL TAKE THAT INTO CONSIDERATION, AND THEY ACTUALLY REFUND MONEY. THIS, ALSO, IS IN MS. CHRISTOPHER'S DEPOSITION. MONEY IS REFUNDED, WHEN THERE IS A DETERMINATION THAT THAT MONEY IS BETTER USED, FOR EXAMPLE, TO POST BOBBED.

-- TO POST BOND.

HOW INVENTOR PRACTICAL WOULD IT BE FOR THE SHERIFF -- HOW IN CONVENIENT OR PRACTICAL WOULD IT BE FOR THE SHERIFF TO NOTIFY THE PRISONERS, I NOTICE THAT YOU HAVE "X" AMOUNT OF MONEY IN YOUR ACCOUNT. I INTEND TO PLACE A LIEN ON IT, PURSUANT TO STATUTE SO-AND-SO AND SO. IF YOU HAVE A REASON WHY I, THIS LIEN SHOULD NOT BE EFFECTIVE,, WOULD THAT BE INORDINATELY BURDENSOME?

I CAN'T TELL YOU THAT IT WOULD BE INORDINATELY BURDENSOME BURDENSOME. I CAN ANSWER THAT I DON'T THINK THAT THE CONSTITUTION REQUIRES THAT. IT DOESN'T INVALIDATE EITHER THE STATUTE OR THE PROGRAM WHICH IS HAS ACTUALLY BEEN IMPLEMENTED, BUT I WILL TELL THAT YOU THERE ARE KAXS WHERE I THINK THAT THAT -- THAT THERE ARE OCCASIONS WHERE I THINK THAT THAT COULD BE PROBLEMATIC. THE SHORT-TERM INMATE WHO COMES INTO THE FACILITY WITH \$50, \$100 \$500 IN HIS POCKET. THAT MONEY IS RETRIEVED AT THE

TIME OF HIS ADMISSION AND PLACED INTO HIS ACCOUNT AND IS CREDITED INTO THAT ACCOUNT. AND IT WOULD BE DEBITED FOR THE AMOUNT OF MONEY, DEPENDING ON HOW CAN HOW LONG HE WAS IN THE FACILITY. I THINK THAT WOULD BE DIFFICULT IMPEDIMENT FOR THE SHORT-TERM INMATE, TWO, THREE, FIVE, TEN DAYS. THE LONGER TERM INMATE, MAYBE. AT SOME POINT COULD THERE BE A POSSIBILITY OF BRINGING ALL OF THESE INDIVIDUALS IN ON A CASE BY CASE, ON AN INDIVIDUAL BY INDIVIDUAL BASIS? I DON'T WANT YOU TO THINK THAT IT WOULD BE IMPOSSIBLE. I THINK IT WOULD BE A BURDEN, BECAUSE THE REALITY IS THAT THE, MOSTLY BECAUSE OF THE CONSTANT CONSTANTLY-CHANGING POPULATION, AND FRANKLY, JUSTICE SHAW, THE NUMBERS. NOW, BROWARD HAS IN EXCESS OF 4,000 INMATES. THIS PROGRAM AND THE ADMINISTERING OF THE PROGRAM IS NOT INCONSEQUENTIAL, AND THAT IS ONE OF THE OBJECTIONS THAT, FRANKLY, WE VOICED ALL ALONG, TO WHAT THE PETITIONER HAS SUGGESTED, THAT, IF GREATER FORMALIZATION IS NOT REQUIRED, BY STATUTE, BY THE CONSTITUTION, THE FACT THAT THERE MIGHT BE A BETTER WAY TO DO IS --

BUT HOW DO YOU GET A GRIP, THEN, WITH THE ARGUMENT THAT THE SHERIFF, IN REALITY, IS NOT MAKING A DETERMINATION OF THE FINANCIAL STATUS OF THE PRISONER BY SIMPLY GOING IN AND TAKING THE MONEY?

WELL, --

NOW, WHEN IS THIS DETERMINATION OF THE FINANCIAL STATUS MADE AND HOW IS IT MADE, OTHER THAN I NOTICE YOU HAVE \$15 IN YOUR ACCOUNT AND I AM GOING TO TAKE \$10 FOR THE CLOTHES AND \$2 PER DAY.

THAT IS HOW THE DETERMINATION IS MADE. THAT IS IT. AND I DON'T THINK IT IS NOT BASED IN REALITY.

IT SEEMS TO ME THAT IS A DETERMINATION. YOU HAVE "X" AMOUNT OF MONEY IN YOUR PRISON ACCOUNT, AS OPPOSED TO THE FINANCIAL STATUS WHICH THE STATUTE CALLS FOR.

WELL, I THINK --

IS THERE, IT SEEMS TO ME THERE IS A DIFFERENCE BETWEEN THE TWO.

I DON'T THINK, WHEN YOU READ THE STATUTE IN ITS ENTIRETY, THAT THERE PRACTICALLY OR LEGALLY IS A DIFFERENCE. FRANKLY IT IS A SHORTCUT. IT IS AN EASY WAY TO IMPLEMENT THE STATUTE, NOT AN UNCONSTITUTIONAL WAY. IT IS AN EASY WAY. I SUPPOSE THE BROWARD SHERIFF, THE DETENTION DIVISION, COULD BRING IN EVERYBODY, EVERY INMATE SIT THEM DOWN AS THE PETITIONERS HAVE SUGGESTED, HAVE THEM FILL OUT AN AFTERWARD EIGHT. WHAT DO YOU HAVE? WELL, I DON'T HAVE MUCH OUTSIDE, BUT YOU KNOW, I DO HAVE \$50 IN MY COMMISSARY ACCOUNT FOR CANDY.

BUT YOU DO AGREE THAT THE STATUTE CALLS FOR A DETERMINATION OF THE FINANCIAL STATUS.

YOU BET.

YOU DO AGREE TO THAT.

I DO, AND THE STATUTE SAYS THAT THESE ARE THE KINDS OF THINGS THAT YOU CAN CONSIDER, AND FRANKLY WE, THE SHERIFF, CONSIDERATION THAT IF -- CONSIDERS THAT, IF YOU HAVE GOT MONEY IN YOUR COMMISSARY ACCOUNT TO BUY CANDY, THAT IS ENOUGH, AND WE ARE NOT GOING TO LOOK FOR ANYTHING ELSE.

IS THE \$15 THAT HE HAS IN HIS PRISON ACCOUNT HIS FINANCIAL STATUS?

I DON'T KNOW THAT IT IS HIS FINANCIAL STATUS, BUT FOR PURPOSE OF IMPLEMENTING THE STATUTE, IT IS HIS FINANCIAL STATUS, IN TERMS OF HIS RESPONSIBILITY TO PAY SUBSIST TENS FEES INCURRED BY THE TAXPAYERS OF BROWARD COUNTY.

YOU ARE SAYING IN ESSENCE THAT THE SHERIFF IS A VERY PREFERRED CREDITOR. THAT IS IF YOU DISCOVERED AN ASSET THAT IS RIGHT THERE AND AVAILABLE TO YOU, THAT YOU ARE GOING TO TAKE ADVANTAGE OF IT. IS THAT IT?

IN RESPONSE TO THAT QUESTION, YES, BUT THAT IS NOT THE WAY I, OF COURSE, WOULD HAVE CHARACTERIZED IT, BUT THE REALITY IS, OF COURSE, WHICH IS PERMITTED, AS A GOVERNMENTAL, AS AN INSTITUTIONAL --

LET ME ASK YOU BEYOND THAT, AND I THINK I UNDERSTAND YOUR POSITION ABOUT THAT, BUT GOING TO, A MINUTE AGO, YOU INDICATED THAT, IF THERE IS A GRIEVANCE FILED, THAT IN FACT THE RECORD WOULD REFLECT HERE THAT YOU HAVE DONE SOME REFUNDS.

YES.

WHAT I AM CONCERNED ABOUT IS WHETHER OR NOT THERE ARE ANY STANDARDS TO DETERMINING WHETHER OR NOT, FOR INSTANCE, SOMEBODY WOULD BE ENTITLED TO A REFUND, AND WHAT STANDARDS ARE OUT THERE? THAT IS WHAT, WHERE WOULD THE, YOU MENTIONED ABOUT BAIL. YOU KNOW, WELL, IF THEY HAVE GOT MONEY, AND THEY NEED IT TO MAKE BAIL, THAT WE WOULD REFUND THE MONEY, OR I AM NOT SURE WHAT -- BUT WHAT STANDARDS ARE THERE, WHERE WE HAVE PRISONER A, AND THEY HAVE GOT \$100 IN THIS ACCOUNT, AND PRISONER Z HAS GOT \$100 IN THE ACCOUNT, AND PRISONER Z FILES A GRIEVANCE TO GET THE MONEY BACK. PRISONER A FILES A GRIEVANCE AND DOESN'T GET THE MONEY BACK. WHAT ARE THE STANDARDS THAT ARE THERE THAT THE PRISONER WOULD KNOW, WELL, I AM GOING TO BE ABLE TO GET MY MONEY BACK. HERE IS WHAT I HAVE TO ESTABLISH TO GET MY MONEY BACK. YOU ARE SAYING IT IS NOT THEIR NET FINANCIAL STATUS, THAT IS IT IS NOT THEIR, THE FACT THAT THEY ARE BROKE AND, IN FACT, OWE THOUSANDS OF DOLLARS OR WHATEVER OUT THERE. IT IS SOMETHING ELSE. WHAT IS IT?

FIRST, YOU ARE RIGHT. IT IS NOT TWLE ARE BROKE IN THE OUTSIDE WORLD OR NOT. INMATES HAND -- IT IS NOT WHETHER THEY ARE BROKE IN THE OUTSIDE WORLD OR NOT. THE INMATES HANDBOOK DOES CONTAIN PROVISIONS AS TO HOW THEY ARE TO BE TREATED. INMATE ASSET ADMINISTRATOR, LINDA CHRISTOPHER, HAS TESTIFIED THAT THERE ARE THESE KINDS OF THINGS THAT CAME INTO PLAY, SPECIFICALLY THE SOP, STANDARD OPERATING PROCEDURE, WHICH IS A PART OF THE RECORD, THERE ARE PRIORITIES SPECIFICALLY LISTED. NUMBER ONE, THE MONIES WILL BE USED TO MAKE BOND. THAT IS THE FIRST PRIORITY. NUMBER TWO, THE PAYMENT OF THE DAILY SUBSIST TENS FEE. NUMBER THREE, THE PAYMENT OF MEDICAL FEES. THEY SEGREGATE THAT OUT AND NUMBER FOUR, FOR COMMISSARY PURCHASES. THERE ARE EXCEPTIONS SPECIFIED, SPELLED OUT IN THE STANDARD OPERATING PROCEDURE. NUMBER ONE, INMATES IN THE WORK RELEASE PROGRAM. THEIR MONEY IS NOT TAKEN. NUMBER TWO, WHEN THE COURT ORDERS A LIEN AGAINST AN INMATE'S FUNDS FOR CHILD SUPPORT RESTITUTION, OR COURT FEES, SUCH ORDERS WILL TAKE PRECEDENCE OVER THE COLLECTION. THE POLICY ACTUALLY PROVIDES FOR THE, FOR A HIERARCHY IN WHAT MONIES WILL BE TAKEN. IF I AM AN INMATE, I SAY, YOU KNOW, I HAVE GOT A SUPPORT CASE OVER HERE, WHERE THE JUDGE HAS ORDERED ME TO PAY THIS MONEY. THE WAY IT IS HANDLED BY THE AGENCY IS THE MONEY WILL NOT BE APPLIED TO SUBSIST TENS FEE. IT WOULD LITERALLY BE APPLIED TO THAT OBLIGATION.

MY CONCERN HERE IS, AND PERHAPS THAT THAT, THIS IS THE RESPONSE, OF WHETHER OR NOT AN AD HOC DETERMINATION IS MADE, A PURELY ARBITRARY OR DISCRETION IN OTHER WORDS, THAT WE END UP WITH THE ADMINISTRATOR THERE, AT THE JAIL, OR WHOEVER IS IN CHARGE OF THIS REVIEW, MAKES A PURELY DISCRETIONARY CALL ON THIS, AND SO THAT WE DON'T REALLY

HAVE, THEN, STANDARDS OR EVEN HANDEDNESS IN THE TREATMENT OF THIS. CAN YOU RESPOND, IS IT YOUR VIEW VIEW? IN OTHER WORDS YOU ARE SAYING THERE ARE SUFFICIENT STANDARDS THAT PEOPLE IN LIKE CIRCUMSTANCES WILL BE TREATED ALIKE?

AD HOC? NO. ARBITRARY? NO. STANDARDS IN THE POLICY, ITSELF, THAT IS HOW IT IS DONE: THEY ACTUALLY RELY, AN INMATE COMES AND SAYS I NEED THIS MONEY FOR SOMETHING ELSE, AND WITHIN THE SPECIFIED REASONS, AND AT THAT POINT, THE MONEY WILL BE, AND I WILL TELL YOU IT IS A LITTLE BIT OF A COMPLICATED PROCEDURE. THEY LITERALLY HAVE TO MAKE ARRANGEMENTS FOR THE MONEY TO BE DISPERSED. THEY HAVE TO GIVEN DIRECTIONS TO WHOM AND WHAT FOR AND ARE SUPPOSED TO PRESENT THE COURT ORDER, WHATEVER IT MIGHT BE.

IT HAS NOTHING TO DO WITH FINANCIAL STATUS.

THAT, I MUST TELL YOU, IS ACCURATE, EXCEPT TO THE EXTENT THAT IF AN INMATE WERE TO COME IN AFTER THE FACT, DURING HIS INCARCERATION, AFTER HIS INCARCERATION, AND SAY, YOU KNOW WHAT? THE MONEY I HAVE BEEN ORDERED TO I HAD AN ORDER TO PAY THIS ALL ALONG. I WILL TELL YOU THAT, IF THAT WERE THE CASE, THEY WOULD EVEN PAY IT AFTER THE FACT. MR. CHIEF JUSTICE

JUSTICE QUINCE HAD A QUESTION.

I AM SORRY. JUSTICE QUINCE?

I HAVE TWO QUESTIONS HERE, AND THE FIRST ONE IS ALONG THOSE SAME LINES. IF, IN FACT, AN IN MADE COMES BEFORE WHOMEVER EVER IT IS -- WHOM EVER IT IS TO CONTEST THE MONEY BEING TAKEN OUT OF THE ACCOUNT AND DEMONSTRATE THAT THERE IS A COURT ORDER TO PAY SOMETHING, WHAT ACTUALLY HAPPENS? DOES THE DEPARTMENT OR THE JAIL, THEN, WRITE A CHECK AND SEND ALL THE MONEY TO THAT PARTICULAR PLACE, OR DOES IT JUST STAY THERE, AND THE INMATE WOULD STILL HAVE ACCESS TO IT?

WELL, HE GIVES INSTRUCTIONS ON WHERE IT IS TO GO, AND AT THAT POINT IT IS DISPERSED. A CHECK WOULD BE ISSUED ACHT INDIVIDUAL COULD COME AND PICK IT UP. IT WOULD BE ISSUED TO SUPPORT ENFORCEMENT OR WHATEVER IT IS, AND THAT IS HOW IT IS DONE.

IN KEEPING, ALSO, WITH THIS WHOLE IDEA OF A PROCEDURE TO CONTEST WHAT IS BEING DONE, I THOUGHT I REMEMBERED SOMETHING IN THE RECORD, ABOUT THERE BEING SOME KIND OF POSTING AT ALL THE JAIL FAST ITS -- FACILITIES, HOUSING FACILITIES, ALSO, WHICH TALKS ABOUT TAKING MONEY OUT OF THESE ACCOUNTS AND THE PROCEDURE THAT YOU HAVE TO FOLLOW, IN ORDER TO CONTEST IT, THAT THERE IS NOTHING IN HERE ABOUT THERE BEING SOME, IN ADDITION TO THE HANDBOOK, THAT THIS INFORMATION IS POSTED?

ACTUALLY IT IS. THE HANDBOOK IS HANDED OUT. IN ADDITION TO THAT, THE ACTUAL POLICY, NOT THE HANDBOOK, THE HANDBOOK SAYS BASICALLY HOW YOU DO, IT BUT THE POLICY, ITSELF, THE OTHER DOCUMENT, THE SOP, IS LITERALLY POSTED IN EVERY UNIT. IT IS UP THERE FOR THEM TO SEE. AND MY RECOLLECTION OF THE RECORD IS THAT, IN ADDITION, TO THE POLICY, THE ACTUAL STATUTE IS POSTED.

BUT NOTHING IN THE POLICY. WE ARE TALKING ABOUT 1.2.12. IT SAYS A COPY OF THE POLICY WILL BE POSTED IN EACH HOUSING UNIT, SO THERE IS NOTHING IN THE POLICY THAT STATES HOW THE INMATE WILL GO ABOUT CONTESTING THE ASSESSMENT OF THE FEE.

THAT IS ACCURATE. THAT WOULD BE IN THE HANDBOOK, ITSELF, ALTHOUGH I MUST, ALSO, TELL YOU. MY UNDERSTANDING IS THAT THE NOTICE THAT IS POSTED DOES MAKE REFERENCE TO THE INMATE ASSET ADMINISTRATOR AS THE PERSON THAT YOU GO TO, BUT THAT IS NOT CLEAR ON THE RECORD.

BUT YOU CANDIDLY ADMITTED WHAT THE SHERIFF HAD TO DO, IN ORDER TO MAKE THIS FINANCIALLY DO-ABLE. THE POLICY DEFINES AN INDIGENT INMATE, AS AN INMATE WITH A ZERO BALANCE IN THEIR EX-CROW ACCOUNT SO IF -- IN THEIR ESCROW ACCOUNT SO IF YOU HAVE AN INDIGENT TEENAGER AND THE MOTHER GIVES HIM \$100, THAT POLICY IS THAT THE INMATE IS NOT INDIGENT BECAUSE OF THAT, WHEREAS SOMEBODY THAT HAS GOT A MILLION DOLLARS OF ASSETS AND JUST DOESN'T HAVE \$100 IN THEIR ACCOUNT, THEY ARE INDIGENT? THAT IS HOW THIS WORKS?

FIRST, I HOPE I DIDN'T USE THE TERM --

AS A PRACTICALITY.

I HOPE I DIDN'T USE THE TERM SHORT CIRCUIT, BUT I MIGHT HAVE. I THINK WHEN I AM HOME I MIGHT HAVE USED THAT TERM. PRACTICALLY SURE, AND I THINK THAT IS WHAT HAS REALLY BEEN ONE OF THEIR COMPLAINTS, THE PETITIONER'S COMPLAINTS ALL ALONG IS, GEE, THIS SEEMS UNFAIR AND FRANKLY IT IS INDEPENDENT OF THE OUTSIDE WORLD. IT LITERALLY, THE DETERMINATION IS MADE INTERNALLY. THIS IS THE WAY HE DID IT.

SINCE THIS HAS BEEN IN EFFECT A AND SINCE THE WHOLE OBJECT OF THIS WAS TO TRY TO DEFRAY COSTS FOR THE SHERIFF.

YES.

OR FOR THE LOCAL FACILITY, HOW, DOES THE RECORD SHOW HOW MUCH ACTUALLY DOES GET COLLECTED? I MEAN, IS THIS WHOLE THING WORTH IT, IN TERMS OF THIS \$2 A DAY, TO --

WELL, I AM NOT SURE HOW YOU WANT ME TO EXPLAIN WHETHER I THINK IT IS WORTH IT OR NOT. THE RECORD REFLECTS THE NUMBERS, AND I THINK OVER THE COURSE, FROM OPEN 96 TO '99, I THINK IT WAS, WHAT, \$1.4 OR \$1.5 MILLION.

WHAT PERCENTAGE OF THE INMATES HAVE ESCROW ACCOUNTS?

THAT I CAN NOT TELL YOU, AND I MUST, ALSO, TELL YOU WE TALKED ABOUT ESCROW ACCOUNTS. IT IS JUST AN INMATE ACCOUNT. IT IS NOT AN ESCROW ACCOUNT IN THAT SENSE, BUT IT IS AN INMATE ASSET ACCOUNT.

IS THERE ANY OTHER WAY FOR THE INMATE TO BUY WHATEVER THEY WANT TO BUY AT THE COMMISSARY, RATHER THAN SET UP AN ESCROW ACCOUNT?

NO. I THINK I HAVE USED MY TIME. UNLESS THERE ARE ANY OTHER QUESTIONS, I WILL CLOSE. FIRST, AN ISSUE IS BROUGHT UP, HAS BEEN BROUGHT UP THROUGHOUT THE, OUR PROCEEDINGS THIS MORNING, ABOUT WHETHER JURISDICTION EXISTED TO BEGIN WITH, AND I THOUGHT WE ADVOCATED FAIRLY STRONGLY THAT IT REALLY WAS NOT THE KIND OF A CASE THAT WOULD ORDINARILY FALL WITHIN YOUR JURISDICTION, AND I STILL THINK THAT IS THE CASE, BECAUSE THE REAL COMPLAINT HERE IS NOT THE STATUTE. IT IS HOW YOU DO AND WHAT YOU DO IN IMPLEMENTING THE STATUTE, SO I WOULD ENCOURAGE, AND I THINK YOU RETAINED THE AUTHORITY, TO DETERMINE, IN ONE OF THE WAYS TO RESOLVE THIS CASE, THAT YOU CHOOSE NOT TO ISSUE ON THE MERITS BUT, IN FACT, DETERMINED THAT, PERHAPS, JURISDICTION DID NOT LIE. IF YOU SHOULD DETERMINE THE JURISDICTION LIES, I WOULD SUBMIT THAT, IN FACT, THE STATUTE IS CONSTITUTIONAL FOR THE TWO BASES ARGUED, AND THAT THAT THE PROGRAM, ITSELF, IS A FAIR EFFORT BY THE SHERIFF TO IMPLEMENT THE STATUTE. MR. CHIEF JUSTICE

THANK YOU. REBUTTAL.

THANK YOU, YOUR HONOR. FIRST, I WOULD LIKE TO CORRECT A MISSTATEMENT BY MR. JOLLY GOING DOWN THE RECORD, ABOUT BUYING CANDY. THE ONLY EVIDENCE IN THE RECORD IS MR. SOLOMOS'S AFFIDAVIT THAT HE WANTED TO USE THIS MONEY TO BUY BASIC NECESSITIES, WHICH COULD BE PERSONAL HYGIENE ITEMS, STATIONARY, POSTAGE, AND WHAT -- STATIONERY, POSTAGE AND WHAT HAVE YOU, SO I THINK THAT IS NOT A FAIR AT CONTRIBUTION. JUSTICE QUINCE, YOUR QUESTION ABOUT STANDARDS FOR RELIEF, I HAVE GOT A COPY OF THE HANDBOOK IN HERE, AND I DON'T SEE ONE WORD IN HERE ABOUT GETTING YOUR MONEY BACK FOR BOND OR ANY OTHER REASON, EXEMPT SOURCES, SO WHATEVER MR. JOLLY WAS READING WAS NOT, SO FAR AS THE RECORD REFLECTS, REASONABLY --

ARE YOU FAMILIAR WITH WHAT HE WAS LISTING FROM, IN OTHER WORDS WHERE THE, TALK ABOUT BAIL OR CHILD SUPPORT OR WHATEVER? WHERE DID THAT COME FROM?

WELL, THE COURT-ORDERED RESTITUTION IS IN THE RECORD. I KNOW THAT. AND THAT WOULD BE IN ACCORDANCE WITH STATUTE, WHICH SAYS THAT THE SHERIFF MUST TAKE ACCOUNT OF LIABILITIES TO OTHERS, SO COURT-ORDERED RESTITUTION WOULD CERTAINLY BE A PROPER --

BUT SO FAR AS YOU KNOW, THE SHERIFF HAS NOT PROMULGATED ANY WRITTEN STANDARDS, AS TO WHEN MONEY WILL BE REFUNDED OR WHAT CONSIDERATIONS WILL BE TAKEN, WHEN THERE IS A GRIEVANCE FILED?

THEY MAY BE PROMULGATED TO STAFF, BUT I DO NOT BELIEVE THEY HAVE BEEN PROMULGATED TO INMATES INMATES. THAT IS MY UNDERSTANDING OF THE RECORD.

DOES THE RECORD CONTAIN THOSE STANDARDS?

NOT TO MY KNOWLEDGE. NOT TO MY KNOWLEDGE.

SO YOU ARE SAYING THAT AN INMATE THAT FILED A GRIEVANCE WOULDN'T KNOW WHAT TO SAY OR HOW TO COMPLAIN, IN TERMS --

EXCEPT INSOFAR AS THE INMATE WAS CAPABLE OF PARSING THE STATUTES. MR. CHIEF JUSTICE JUSTICE --

ON PAGE 212 OF THE RECORD, THERE IS AN INDICATION OF PRIORITIES. THE USE OF INMATE FUNDS SHALL BE IN THE FOLLOWING ORDER, PRIORITY A, TO MAKE BOND, AND THEN PAY SUBSIST TENS FEE, MEDICAL FEE, AND COMMISSARY PURCHASES, AND THAT IS A PART OF A STANDARD OPERATING PROCEDURE ON 212.

YES, YOUR HONOR, AND THIS WOULD BE PROMULGATED TO MEMBERS OF THE STAFF, IN THE STAFFMANULE. THIS, TO THE BEST OF MY KNOWLEDGE, IS NOT, IT IS CERTAINLY NOT IN THE HANDBOOK.

IT SAYS A COPY OF THIS POLICY WILL BE POSTED IN EACH HOUSING UNIT.

MY UNDERSTANDING OF THAT IS THE NOTICE THAT IS POSTED IS SIMPLY A STATEMENT THAT ALL PERSONS, ALL INMATES SHALL BE CHARGED \$2 PER DAY AND A \$10 PROCESSING FEE. I DON'T BELIEVE THE FULL TWO PAGES OF THAT ARE POSTED. MR. CHIEF JUSTICE

THANK YOU. YOUR TIME IS UP. THANK YOU, COUNSEL, FOR YOUR ASSISTANCE IN THIS CASE. THE COURT WILL TAKE ITS MORNING RECESS. THE COURT WILL BE IN RECESS FOR 15 MINUTES.